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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,881	01/16/2001	Vernon E. Mc George JR.	10992444-1	9291

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10/31/2005

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EXAMINER

MOSSER, KATHLEEN MICHELE

ART UNIT

PAPER NUMBER

3715

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tath

Office Action Summary	Application No. 09/765,881	Applicant(s) MC GEORGE ET AL.	
	Examiner Kathleen Mosser	Art Unit 3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 6-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

IN response to the Request for Continued Examination filed 09/12/2005, claims 1-19 are pending, claims 7-17 remain withdrawn from consideration; claims 1-6, 18 and 19 remain under consideration by the examiner.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/12/2005 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6, 18 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's amendment introduced the limitation "wherein an answer record is generated and forwarded to a database each time said survey participant completes a selection of answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant". Although the specification as originally filed enables the creation of an answer record which reflects the answer selected after each user selection, see page 9, lines 11-20, the specification fails to teach forwarding the answer to a

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database after the completion of each question. In Figure 5 and page 7 line 13 – page 8 line 5, the applicant describes the transmission of the all the answer records to the server after completion of the entire survey. There is no mention of generating and forwarding an answer record to the database after the selection of each answer by the user.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 2, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over West et al (US 6175833 B1). West et al teaches a method and system including: defining a question for presentation in a survey; defining a plurality of potential answers, each one of said plurality of potential answers stored corresponding to said question (col. 2: 42-48); assigning a question code to said question (the question number); assigning a plurality of choice codes, one of each said choice code assigned uniquely to each one of said plurality of potential answers (options number field 58); creating question choice records for associating question code with each choice code (the survey index table 40); presenting said question to a survey participant; and presenting said set of potential answers to said survey participant un accordance with said question choice record (col. 6: 37-38), wherein an answer

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record is generated and forwarded to a database each time said survey participant completes a selection of an answer, said answer record reflecting the answer selected from said set of potential answers by said survey participant (col. 6: 39-47), as in **claim 1** and substantially similar limitations in **claims 18 and 19**. Col. 6: 39-47 further teaches the feature of creating the answer record to associate said choice code with said question code, as in **claim 2**.

West et al does not specifically teach that use of an application specific integrated circuit (**claims 1, 18 and 19**); storing the information in "flash" memory (**claim 1**); using logic gates with logic functions (**claims 1-6**); and a logic circuit with discrete logic gates (**claim 18** and the representative structure associated with the "discrete logic means" in **claim 19**).

On page 12, starting at line 21 of the specification as originally filed applicant admits that a discrete logic circuit having logic gates for implementing logic functions upon data signals, an application specific integrated circuit having appropriate combinational logic gates, a programmable gate array, and field programmable gate arrays are all old and well-known in the art. These components are also art-accepted equivalents for the implementation of any software methodology. Further the examiner maintains OFFICIAL NOTICE that flash memories are old and well-known in the art of computer architecture and is an art accepted equivalent to the memory which is inherently present in the database structure of the Peters et al system. This statement is evidenced by Freeman et al, see paragraph 57. It would have obvious to one of ordinary skill in the art to implement the method and system using application specific integrated circuits which make use of logic gates, flash memory and/or discrete logic gates so as to produce a dedicated system focused entirely on solving a single problem (collecting survey data).

4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over West et al (US 6175833 B1) in view of Peters et al (US 5842195), West et al teaches all aspects of the invention as shown above but fails teach assigning a choice code to define the format of the answer solicited (**claim 3**); that the format in multiple choice to capture user entered numeric data or text data in support of an

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"other" choice (**claim 4**); specifying a follow-up question (**claim 5**) or presenting the follow-up question (**claim 6**).

Peters et al teaches assigning a choice type to said choice code to define the format of the answer solicited by said question (**claim 3**) is shown in at least col. 12: 55 - col. 13: 17. The answer format may be multiple-choice format, col. 12: 57-59, and further allows for entry of both numeric and text data, col. 13: 1-3. The author is allowed to specify a follow-up question for a predetermined said potential answer (**claim 5**), said follow-up questions being presented to the survey participant (**claim 6**), as is shown in at least col. 13: 44-46 and col. 15: 23-36, as a "Go To" or "Branch-To" question.

It would have been obvious to one of ordinary skill in the art to incorporate the question type formats and follow-up questions of Peters et al into the West et al system so as to allow for simple to complex questions/answers and more precise evaluations, see Peters et al col. 6: 46-52.

Response to Arguments

5. In view of the amendments to the claims the previous rejection under 35 USC §103 based upon Peters et al has been withdrawn and a new rejection based upon West et al has been applied. In addition the examiner has provided the Freeman et al reference to support the previous taking of official notice, although the statement of official notice is maintained.

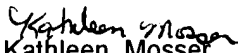
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kathleen Mosser
Patent Examiner
Art Unit 3715

October 25, 2005